

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Meeting Summary

House Bill 1330 (2010) Sub-Workgroup General Assembly Building, 3rd Floor West Conference Room August 17, 2010, 10:00 A.M.

Members present: Delegate John Cosgrove, Joe Mayes, Tom Bell, Mark Rosenfield, Lori Overholt, Chris Nolen, Jerry Kilgore, Michael Levinson, Trisha Henshaw, Philip Richardson, Pam Coerse, Frank Eck, Ron Holt, Heather Gillespie

Staff Present: Amigo Wade

I. Welcome and Call to Order

- Delegate John A. Cosgrove

II. Overview of HB 1330

- Subsection A:
 - Purchase price and acquisition charges are paid in full
 - All association fees (maintenance fees, etc.) are paid in full
 - Owned for at least ten years (from date of record of deed)
 - No successor in ownership—must be the original
 - Deed conveying entire ownership must executed and notarized no sooner than two years and no later than four years after the notice is given.
- Subsection B:
 - Developer shall record the deed if all conditions are satisfied within 30 days.
- Subsection C:
 - Upon satisfaction and recording the time-share owner is no longer a member of the association or an owner of the time-share and all obligations shall cease.
- Subsection D:
 - All money shall remain the property of the developer or the association as the case may be.
- Subsection E:
 - The developer is under no obligation to pay maintenance fees, assessments or any other charges.

DELEGATE JOHN A. COSGROVE
DELEGATE ROSALYN R. DANCE
DELEGATE DAVID BULOVA
DELEGATE DANIEL W. MARSHALL, III
DELEGATE G. GLENN ODER

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
T. K. SOMANATH
MELANIE S. THOMPSON

III. Roundtable Discussion

- **Howard Nausbaum**, *President, National Association of Resort Developers (ARDA)*
 - Practical and legal implications:
 - When the development goes to the association sometimes the association with a contract out to a property manager which may be owned by the developer.
 - Issues:
 - No one will pay management fees—this will effect all owners.
 - Secondary sale market needs to be improved. 18-20% of sales in secondary market. (Model Act that is being reviewed is aimed at resolving some of these issues).
 - Doesn't take into account different developer control issues
 - Creates an accounting issue as associations may not be able to record a sale if there is a window for returning the time-share.
 - Will cause time-share owners who don't want to give up their time-share to be adversely affected.
- **Delegate Cosgrove**
 - If the time-share was re-sold, wouldn't that make up for the negative impact on maintenance fees?
- **Joe Mayes**, *Vacation Sales Association*
 - Opposed to this legislation
 - Questions whether the problem to be identified is so huge as to merit this legislation
 - The primary impact is on time-share owners who want to keep their time-shares—this is not felt by the developers.
 - Assume developer would welcome “free” inventory to resale, but this is not the case. At the ten-year period many developers are in a “wind down” phase, so they may not have the staff for resale.
 - Does the legislation apply to existing projects?
 - If so, there are options—if the developer is in a vibrant selling mode, then there is a possibility of working with the developer to re-deed.
 - Constitutional issue—if legislation is prospective causes difficulty and uncertainty
 - Will only apply to very large projects
 - Doesn't align with other provisions of Virginia Real Estate Time-Share Act.
 - Ten year mark creates adverse affects and unknown risks.
 - Comparisons with the campground is different. Campgrounds usually do not involve heavily improved common areas and maintenance fees are typically not high. Asserts that the change in the law has driven campgrounds into bankruptcy.
 - Creates legal issue relating to title, in particular the Rule Against Perpetuities.
- **Frank Eck**, *VRDA*
 - VRDA drafted the bill at Delegate Cosgrove's request five years ago.
 - 20% dissatisfied—would we assume that all would turn back in their time-shares? May be premature in concluding this is a great problem.
 - There is a problem if the time-share is going back to the association as opposed to the developer.

- **Delegate Cosgrove**
 - We need to be in tune with the market; read over 600 letters in response to this issue. The option to deed back to the developer exists—but most don't.
 - The weakness is with the time-shares going back to the associations, not the developers.
- **Tom Bell, *Interval International***
 - This is a problem with no easy solution.
 - This legislation will not solve the problem.
 - Developments may lose affiliation with exchange companies if the companies see weeks being given back..
- **Heather Gillespie, *Common Interest Communities Board, Ombudsperson***
 - 42% of the complaints received are about time-shares
 - Complaints include:
 - Sales presentations—misrepresentations. Whether the material was misunderstood or what they were told was incorrect.
 - Maintenance fees start increasing
 - Resale issues
 - Need more education on the front end (getting fee simple interest, is not an investment, information on the possibility of resale, maintenance fees may rise, etc.).
 - Disclosure may not be a cure.
- **Joe Mayes**
 - Possible “super” disclosure in the public offering statement. Separately acknowledge that a time-share is not an investment. Resale is difficult, maintenance fees increase.
- **Chris Nolen, *ARDA***
 - A website with a glossary may be helpful. The more educated a consumer is the better.
- **Michael Levinson, *Gold Key Resorts***
 - According to the polls of time-share owners, most are overwhelmingly satisfied.
 - This is not a legislative addressable issue.
 - Answers are not obvious yet.
- **Lori Overholt, *VSA Resorts***
 - Many time-share owners get it in their heads that they can get a certain amount for their time-share resale.
- **Delegate Cosgrove**—This legislation will probably not be re-introduced in the upcoming legislative session.

IV. Public Comment

- There was not public comment.

V. Adjourn